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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/472,743 12/27/99 FOUS

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ROBERT M FOUS  
2706 MOON MOUNTAIN DRIVE  
EUGENE OR 97403

QM12/0523

EXAMINER

WELCH, G

ART UNIT

PAPER NUMBER

3741

DATE MAILED:

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**09/472,743**

Applicant(s)

**Fous**

Examiner

**Gary L. Welch**Group Art Unit  
**3741**☒ Responsive to communication(s) filed on Dec 27, 1999☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claim**

- ☒ Claim(s) 1-7 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-7 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The drawing(s) filed on Dec 27, 1999 is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both "outer shell" (page 8, line 14) and "mitten" (page 8, line 20). Correction is required.

### *Specification*

2. The disclosure is objected to because of the following informalities:  
page 7, line 10: Change "Figure 2" after "embodiment of" to --Figure 1--.  
page 10, line 10: Change "18" to --20--.  
page 10, line 13: Change "19" to --21--.  
Appropriate correction is required.
3. The use of the trademark "velcro" on page 10, line 14 has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

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*Claim Objections*

4. Claim 4 is objected to because of the following informalities:

The letter "a" before "fielding" should be capitalized. Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4, 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 4, the use of the term "or" in line 2 is indefinite because it does not particularly define the applicant's invention.

7. Claim 6 recites the limitation "the aforementioned valley" in line 2 and the limitation "the thumb slot and nearest finger slot" in lines 2-3. There is insufficient antecedent basis for these limitations in the claim. Claim 7 recites the limitation "the curved plane" in lines 1-2. There is insufficient antecedent basis for these limitations in the claim.

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*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Latina '176.

Latina discloses a fielding glove (Figure 1) comprising an outer shell C having at least one finger portion (Figure 1), a thumb portion (Figure 1) and a web (A, area between index finger and thumb) joining the thumb portion and the nearest finger portion, at least one interior finger compartment (Figure 1) designed to accommodate at least one finger (Figure 1) positioned within the outer shell C, an interior thumb compartment (Figure 1) designed to accommodate a thumb (Figure 1) positioned within the outer shell and where the angle between the interior thumb compartment and the nearest interior finger compartment is approximately 90 degrees (Figure 1).

With regard to claim 2, the at least one finger compartment is designed to accommodate all four fingers.

With regard to claim 5, the web is slightly larger than the span between the thumb and the nearest finger of the outer shell C (Figure 1).

With regard to claim 7, the web A conforms to a curved plane in the space between the thumb and nearest finger (Figure 1).

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10. Claims 1, 2; 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Latina '219.

Latina discloses a fielding glove (Figure 2) comprising an outer shell (Figure 2) having at least one finger portion C, a thumb portion B and a web D joining the thumb portion B and the nearest finger portion C, at least one interior finger compartment 105 designed to accommodate at least one finger (Figure 2) positioned within the outer shell, an interior thumb compartment 103 designed to accommodate a thumb (Figure 2) positioned within the outer shell and where the angle between the interior thumb compartment 103 and the nearest interior finger compartment 105 is approximately 90 degrees (see attached figure).

With regard to claim 2, the at least one interior finger compartment 105 is designed to accommodate all four fingers (Figure 2).

With regard to claim 5, the web D is slightly larger than the span between the thumb and nearest finger of the outer shell (Figure 2).

With regard to claim 7, the web D conforms to a curved plane in the space between the thumb and nearest finger (Figures 1 and 2).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Latina '176 in view of Aoki.

Latina discloses the invention substantially as claimed. However, Latina does not disclose that the outer shell has an extension that extends over the inside of the wrist and is held in place by a wrist strap. Aoki teaches a fielding glove 1 having an outer shell (Figure 7) with an extension 6 which extends over the inside of the wrist and is held in place by a wrist strap 68 in order to protect the user's wrist (Col. 1, lines 22-25) when fielding a ball. It would have been obvious to one of ordinary skill at the time the invention was known, to provide an extension as taught by Aoki to the device of Latina in order to provide protection to a user's wrist when fielding a ball.

With regard to claim 4, the extension 6 is a separate padded leather piece (Col. 3, lines 13-24).

13. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Latina '219 in view of Aoki.

Latina discloses the invention substantially as claimed. However, Latina does not disclose that the outer shell has an extension that extends over the inside of the wrist and is held in place by a wrist strap. Aoki teaches a fielding glove 1 having an outer shell (Figure 7) with an extension 6 which extends over the inside of the wrist and is held in place by a wrist strap 68 in

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order to protect the user's wrist (Col. 1, lines 22-25) when fielding a ball. It would have been obvious to one of ordinary skill at the time the invention was known, to provide an extension as taught by Aoki to the device of Latina in order to provide protection to a user's wrist when fielding a ball.

With regard to claim 4, the extension 6 is a separate padded leather piece (Col. 3, lines 13-24).

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Latina '219 in view of Synek.

Latina discloses the invention substantially as claimed. However, Latina does not disclose a web having a donut shaped disk centered in a valley between the thumb and finger compartments with straps attached to the disk radiating out from the circumference of the disk in a star pattern and attaching to various points along the edges of the thumb and index finger and to a strap that bridges the tips of the thumb and nearest finger. Synek teaches a fielding glove 10 comprising a web 14 having a donut shaped disk 28 centered in a valley between the thumb and finger compartments (16, 19) with straps 34 attached to the disk 28 and radiating out from the circumference of the disk 28 in a star pattern (Figure 1) and attaching to various points along the edges of the thumb and index finger (16, 19) and to a strap 32 that bridges the tips of the thumb and nearest finger (Figure 2). This web 14 enhances a player's ability to catch the ball since the web 14 is inherently flexible and readily collapses when the ball is received in the web (Col. 1, lines 51-61). It would have been obvious to one of ordinary skill at the time the invention was



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known to replace the web assembly of Latina with a web assembly 14 as taught by Synek in order to enhance a player's ability to catch a ball by providing a web that is inherently flexible and readily collapses when the ball is received in the web.


*Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clevenhagen discloses a fielding glove having a web assembly with a donut shaped disk and a plurality of straps extending radially outward from the disk and attached to the finger and thumb portions and to a strap that bridges the tips of the thumb and finger portions. Gould teaches a fielding glove incorporating a wrist protection device attached to the outer shell of the glove. Jones discloses a fielding glove where the angle between the finger and thumb portions is approximately 90 degrees.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Welch whose telephone number is (703) 305-0451. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025.

glw

May 22, 2000



Michael A. Neas  
Primary Examiner